



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to create* 238.3045 of the statutes; **relating to:** authorizing the transfer
2 of tax credits earned in connection with economic development in this state.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Economic Development Corporation (corporation) may certify a person to claim tax credits against the person's income or franchise tax liability or against the person's liability for fees imposed on insurers, if the corporation determines that the person is conducting or will conduct certain eligible business activities that will result in economic development in the state (economic development tax credits). A person may qualify for additional economic development tax credits if the eligible activity conducted by the person will benefit a particular group or economically distressed area that the state has targeted for economic development.

This bill creates a program under which the corporation may approve the transfer of economic development tax credits to another Wisconsin taxpayer other than the person to whom the corporation initially awards the economic development tax credits. Under the bill, the corporation may approve the transfer of economic development tax credits if the person to whom the tax credits are initially awarded meets at least one of the following conditions in addition to being authorized by the corporation to claim the tax credits:

1. The person is headquartered in, and employs at least 51 percent of its employees in, Wisconsin.
2. The person intends to relocate its headquarters to, and employ at least 51 percent of its employees in, Wisconsin.

3. The person intends to expand its operations in Wisconsin, and that expansion will increase the number of full-time employees employed by the person in Wisconsin by a number that equals at least 10 percent of the person's full-time employees.

4. The person intends to expand its operations in Wisconsin, and the person will make a significant capital investment in property in Wisconsin as a result of that expansion.

If the corporation approves a person to transfer economic development tax credits, that person may transfer some or all of the tax credits to another person previously identified to the corporation, if the tax credits are transferred in exchange for some valuable consideration, other than money, in connection with the eligible business activity for which the tax credits were awarded. The person transferring the credits must notify the corporation and the Department of Revenue of that transfer. The person to whom the ~~credits~~^{tax} are transferred may carry forward any unused amount of the transferred ~~value~~^{tax} of those tax credits for up to 15 years until fully claimed.

Under the bill, if the corporation revokes a person's certification for economic development tax credits and that person has already transferred the tax credits, that person must repay the full amount of the value of the transferred tax credits to the state.

Under the bill, the corporation may authorize the transfer of up to \$15,000,000 in economic development tax credits over three years. However, if after reaching that three-year limit, the corporation determines that an extension of the program will support significant economic development in Wisconsin, the corporation may continue the program for up to an additional three years and authorize the transfer of up to an additional \$15,000,000 in economic development tax credits. However, any such extension of the program is subject to passive review by the Joint Committee on Finance.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 238.3045 of the statutes is created to read:

2 **238.3045 Transferability of tax benefits.** (1) APPLICATION AND CORPORATION

3 APPROVAL. (a) An applicant for certification for tax benefits under s. 238.01 may

4 submit with its application under s. 238.01 (1) an application to the corporation on

5 a form prescribed by the corporation to transfer some or all of those tax benefits

6 under this section. The application shall include the name, address, and tax

7 identification number of the person to whom the applicant intends to transfer the tax

to another person

benefits and any other information the corporation requires. The corporation shall notify the applicant of the corporation's determination concerning the transfer of tax benefits within 30 business days after the corporation receives the application.

****NOTE: The applicant may apply to transfer some or all of the tax benefits. Is that consistent with your intent, or is the intent to require transfer of 100 percent of the tax benefits upon approval of WEDC?

****NOTE: Is the 30-day response time still feasible given that the program is now exclusively for the transfer of economic development tax credits under ss. 238.301 to 238.306, and the application for transfer must be submitted with the application for certification under s. 238.301?

There is no similar requirement for a certification determination.

(b) The corporation may approve the transfer of tax benefits under this section if the corporation certifies the applicant under par. (a) for tax benefits under s. 238.301 and finds that the applicant meets at least one of the following conditions:

1. Is headquartered and employs at least 51 percent of its employees in this state.

2. Intends to relocate its headquarters to this state and employ at least 51 percent of its employees in this state.

3. Intends to expand its operations in this state, and that expansion will result in an increase in the number of full-time employees employed by the applicant in this state in an amount equal to at least 10 percent of the applicant's full-time workforce in this state at the time of application.

4. Intends to expand its operations in this state, and that expansion will result in the applicant making a significant capital investment in property located in this state, as determined by the corporation.

(c) 1. Subject to subd. 2., a person that receives an approval under par. (b) may transfer tax benefits to the person identified as the transferee in the application under par. (a) after the corporation authorizes the person to claim tax benefits under s. 238.303 (2) and provides the notice of eligibility under s. 238.303 (3). The person

in accordance with the terms of

who transfers the tax benefits shall promptly notify the department of revenue and the corporation of the transfer in the manner prescribed by the corporation. The person to whom tax benefits are transferred may carry forward any unused amount of the transferred value of those tax benefits as provided under the appropriate provision in ch. 71. *or in s. 76.636*

2. Tax benefits may be transferred under this paragraph only in exchange for some consideration, other than money, in connection with the eligible activity for which the tax benefits were initially awarded.

***NOTE: I did not retain the "condition precedent" language or include equivalent language because, under this redraft, WEDC must find that the person certified for tax benefits has satisfied the requirements for claiming the tax benefits before WEDC authorizes the person to claim the tax benefits; and the person may only transfer the tax benefits once WEDC issues that authorization under s. 238.303 (2) and (3). ~~Please let me~~

~~know if that is not consistent with your intent~~

Is that change okay?

tax benefits

(2) REPAYMENT. (a) 1. If the corporation revokes a person's certification under s. 238.305, and at the time of revocation that person has transferred some or all of those tax benefits under this section, that person shall repay the full amount of the transferred value of the tax benefits. The corporation may recover its costs of collection under this subdivision, including reasonable attorney fees. *full full*

2. If the corporation is unable to recover under subd. 1. the amount of tax benefits that the corporation approved to be transferred and that was transferred under this section, the corporation shall notify the department of revenue that the tax benefits have been revoked and may not be claimed. *of the amount that*

(b) The corporation shall pay any amounts it receives as payment for transferred tax benefits under par. (a) to the secretary of administration for deposit in the general fund.

revocation of

1 **(3) ANNUAL REPORT.** Annually, the corporation shall submit a report to the joint
2 committee on finance that provides a detailed assessment of the progress to date of
3 the program under this section.

4 **(4) PROGRAM LIMITS AND TERMINATION.** (a) Except as provided in par. (b), the
5 corporation may not authorize the transfer of tax benefits under this section that
6 total more than \$15,000,000, and the corporation may not authorize the transfer of
7 tax benefits after 36 months after the effective date of this paragraph [LRB inserts
8 date].

9 (b) Upon expiration of the 36-month period under par. (a), the corporation may
10 continue to authorize the transfer of tax benefits under this section for up to an
11 additional 36 months, and the corporation may authorize the transfer of up to an
12 additional \$15,000,000 in tax benefits, if the corporation determines that a
13 continuation of the program under this section will promote significant economic
14 development in this state. Before the corporation authorizes the transfer of tax
15 benefits under this paragraph, the chief executive officer of the corporation shall
16 notify the joint committee on finance in writing that the corporation intends to
17 continue authorizing the transfer of tax benefits under this section. That notice shall
18 state the reasons supporting the corporation's determination that the transfer of
19 additional tax benefits will promote significant economic development in this state.
20 If, within 14 working days after the date of that notice, the cochairpersons of the
21 committee do not notify the corporation that the committee has scheduled a meeting
22 to review the corporation's proposed continuation of the program, the corporation
23 may proceed to authorize the transfer of additional tax benefits under this section.
24 If, within 14 working days after the date of that notice, the cochairpersons of the
25 committee notify the corporation that the committee has scheduled a meeting to

SECTION 1

1 review the proposed continuation of the program, the corporation may proceed to
2 authorize the transfer of additional tax benefits only upon approval of the committee.

3 **SECTION 2. Initial applicability.**

4 (1) This act first applies to taxable years beginning on January 1, 2014.

5 (END)

Gallagher, Michael

From: Rep.Loudenbeck
Sent: Tuesday, October 22, 2013 10:45 AM
To: LRB.Legal; Gallagher, Michael
Cc: Morouny, Lonna
Subject: RE: Draft review: LRB -2997/P2 Topic: Transferability of tax credits related to economic development

Hi Mike – I reviewed the notes that you have in the bill draft and request that you kindly make the following changes:

Note 1 on page 3 – the intention is for the entire tax benefit to be transferred to one entity.

Note 2 on page 2 – you are correct, that would be inconsistent with the existing process. Instead of within 30 days can we say notify at time of certification determination?

Note 3 on page – yes that change is Okay

Thank you! Please give Lonna in my office a call if you have any questions. We hope to have this redrafted in time for circulation tomorrow to the tax credit reform workgroup. Let us know if this will not be possible and we will send the /P2 with some notes. Thanks.

Amy Loudenbeck

From: LRB.Legal
Sent: Tuesday, October 22, 2013 8:24 AM
To: Rep.Loudenbeck
Subject: Draft review: LRB -2997/P2 Topic: Transferability of tax credits related to economic development

Following is the PDF version of draft LRB -2997/P2.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1/73

- gen cat

- 1 **AN ACT** *to create* 238.3045 of the statutes; **relating to:** authorizing the transfer
- 2 of certain tax credits earned in connection with economic development in this
- 3 state.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Economic Development Corporation (corporation) may certify a person to claim tax credits against the person's income or franchise tax liability or against the person's liability for fees imposed on insurers, if the corporation determines that the person is conducting or will conduct certain eligible business activities that will result in economic development in Wisconsin (economic development tax credits). A person may qualify for additional economic development tax credits if the eligible activity conducted by the person will benefit a particular group or economically distressed area that the state has targeted for economic development.

This bill creates a program under which the corporation may approve the transfer of economic development tax credits to another Wisconsin taxpayer other than the person to whom the corporation initially awards the tax credits. Under the bill, the corporation may approve the transfer of economic development tax credits if the person to whom the tax credits are initially awarded meets at least one of the following conditions in addition to being authorized by the corporation to claim the tax credits:

1. The person is headquartered in, and employs at least 51 percent of its employees in, Wisconsin.
2. The person intends to relocate its headquarters to, and employ at least 51 percent of its employees in, Wisconsin.

3. The person intends to expand its operations in Wisconsin, and that expansion will increase the number of full-time employees employed by the person in Wisconsin by a number that equals at least 10 percent of the person's full-time employees.

4. The person intends to expand its operations in Wisconsin, and the person will make a significant capital investment in property in Wisconsin as a result of that expansion.

If the corporation approves a ^{those} person to transfer economic development tax credits, that person may transfer some or all of the tax credits to another person previously identified to the corporation, if the tax credits are transferred in exchange for some valuable consideration, other than money, in connection with the eligible business activity for which the tax credits were awarded. The person transferring the credits must notify the corporation and the Department of Revenue of that transfer. The person to whom the tax credits are transferred may carry forward any unused amount of the transferred value of those tax credits for up to 15 years until fully claimed.

Under the bill, if the corporation revokes a person's certification for economic development tax credits and that person has already transferred the tax credits, that person must repay the full amount of the value of the transferred tax credits to the state.

Under the bill, the corporation may authorize the transfer of up to \$15,000,000 in economic development tax credits over three years. However, if after reaching that three-year limit, the corporation determines that an extension of the program will support significant economic development in Wisconsin, the corporation may continue the program for up to an additional three years and authorize the transfer of up to an additional \$15,000,000 in economic development tax credits. However, any such extension of the program is subject to passive review by the Joint Committee on Finance.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 238.3045 of the statutes is created to read:

238.3045 Transferability of tax benefits. (1) APPLICATION AND CORPORATION

APPROVAL. (a) An applicant for certification for tax benefits under s. 238.301³ may submit with its application under s. 238.301³ (1) an application to the corporation on a form prescribed by the corporation to transfer some or all of those tax benefits to another person under this section. The application shall include the name, address, and tax identification number of the person to whom the applicant intends to

SECTION 1

*Notifies the applicant of the determination
corporation's certification determination under
s. 238.301*

1 transfer the tax benefits and any other information the corporation requires. The
2 corporation shall notify the applicant of the corporation's determination concerning
3 the transfer of tax benefits within 30 business days after the corporation receives the
4 application when

~~***NOTE: The applicant may apply to transfer some or all of the tax benefits. Is that consistent with your intent, or is the intent to require transfer of 100 percent of the tax benefits upon approval of WEDC?~~

~~***NOTE: Is the 30-day response time still feasible given that the program is now exclusively for the transfer of economic development tax credits under ss. 238.301 to 238.306, and the application for transfer must be submitted with the application for certification under s. 238.301? There is no similar requirement for a certification determination.~~

5 (b) The corporation may approve the transfer of tax benefits under this section
6 if the corporation certifies the applicant under par. (a) for tax benefits under s.
7 238.301 and finds that the applicant meets at least one of the following conditions:

8 1. Is headquartered and employs at least 51 percent of its employees in this
9 state.

10 2. Intends to relocate its headquarters to this state and employ at least 51
11 percent of its employees in this state.

12 3. Intends to expand its operations in this state, and that expansion will result
13 in an increase in the number of full-time employees employed by the applicant in
14 this state in an amount equal to at least 10 percent of the applicant's full-time
15 workforce in this state at the time of application.

16 4. Intends to expand its operations in this state, and that expansion will result
17 in the applicant making a significant capital investment in property located in this
18 state, as determined by the corporation.

19 (c) 1. Subject to subd. 2., a person that receives an approval under par. (b) may
20 transfer tax benefits in accordance with the terms of the application under par. (a)

1 after the corporation authorizes the person to claim tax benefits under s. 238.303 (2)
2 and provides the notice of eligibility under s. 238.303 (3). The person who transfers
3 the tax benefits shall promptly notify the department of revenue and the corporation
4 of the transfer in the manner prescribed by the corporation. The person to whom tax
5 benefits are transferred may carry forward any unused amount of the transferred
6 value of those tax benefits as provided under the appropriate provision in ch. 71 or
7 in s. 76.636.

8 2. Tax benefits may be transferred under this paragraph only in exchange for
9 some consideration, other than money, in connection with the eligible activity for
10 which the tax benefits were initially awarded.

****NOTE: I did not retain the "condition precedent" language or include equivalent language because, under this redraft, WEDC must find that the person certified for tax benefits has satisfied the requirements for claiming the tax benefits before WEDC authorizes the person to claim the tax benefits; and the person may only transfer the tax benefits once WEDC issues that authorization under s. 238.303 (2) and (3). Is that change Okay?

11 (2) REPAYMENT. (a) 1. If the corporation revokes a person's certification for tax
12 benefits under s. 238.305, and, at the time of revocation, that person has transferred
13 some or all of those tax benefits under this section, that person shall repay the full
14 amount of the transferred value of the tax benefits. The corporation may recover its
15 costs of collection under this subdivision, including reasonable attorney fees.

16 2. If the corporation is unable to recover under subd. 1. the full amount of tax
17 benefits that the corporation approved to be transferred and that was transferred
18 under this section, the corporation shall notify the department of revenue of the
19 revocation of tax benefits and of the amount that may not be claimed.

20 (b) The corporation shall pay any amounts it receives as payment for
21 transferred tax benefits under par. (a) to the secretary of administration for deposit
22 in the general fund.

1 (3) ANNUAL REPORT. Annually, the corporation shall submit a report to the joint
2 committee on finance that provides a detailed assessment of the progress to date of
3 the program under this section.

4 (4) PROGRAM LIMITS AND TERMINATION. (a) Except as provided in par. (b), the
5 corporation may not authorize the transfer of tax benefits under this section that
6 total more than \$15,000,000, and the corporation may not authorize the transfer of
7 tax benefits after 36 months after the effective date of this paragraph [LRB inserts
8 date].

9 (b) Upon expiration of the 36-month period under par. (a), the corporation may
10 continue to authorize the transfer of tax benefits under this section for up to an
11 additional 36 months, and the corporation may authorize the transfer of up to an
12 additional \$15,000,000 in tax benefits, if the corporation determines that a
13 continuation of the program under this section will promote significant economic
14 development in this state. Before the corporation authorizes the transfer of tax
15 benefits under this paragraph, the chief executive officer of the corporation shall
16 notify the joint committee on finance in writing that the corporation intends to
17 continue authorizing the transfer of tax benefits under this section. That notice shall
18 state the reasons supporting the corporation's determination that the transfer of
19 additional tax benefits will promote significant economic development in this state.
20 If, within 14 working days after the date of that notice, the cochairpersons of the
21 committee do not notify the corporation that the committee has scheduled a meeting
22 to review the corporation's proposed continuation of the program, the corporation
23 may proceed to authorize the transfer of additional tax benefits under this section.
24 If, within 14 working days after the date of that notice, the cochairpersons of the
25 committee notify the corporation that the committee has scheduled a meeting to

SECTION 1

1 review the proposed continuation of the program, the corporation may proceed to
2 authorize the transfer of additional tax benefits only upon approval of the committee.

3 **SECTION 2. Initial applicability.**

4 (1) This act first applies to taxable years beginning on January 1, 2014.

5 (END)

Gallagher, Michael

From: Loudenbeck, Amy
Sent: Monday, November 04, 2013 2:09 PM
To: Western, Jennifer N - DOR; Gallagher, Michael
Cc: Morouney, Lonna; Michels, Steven - WEDC; Ristow, Nathaniel L - DOR (Nate)
Subject: RE: LRB 2997/P3

Thanks Jennifer and Mike – These all look very straightforward. it looks like we are very close to a final draft. I really appreciate your cooperation.

Amy

From: Western, Jennifer N - DOR [mailto:Jennifer.Western@revenue.wi.gov]
Sent: Monday, November 04, 2013 2:06 PM
To: Gallagher, Michael
Cc: Morouney, Lonna; Michels, Steven - WEDC; Loudenbeck, Amy; Ristow, Nathaniel L - DOR (Nate)
Subject: RE: LRB 2997/P3

Hi Mike, here is the information we discussed on the phone in reference to LRB 2997/3. (My comments in bold, black)

Let me know of any questions / concerns.

Thanks,

Jennifer Western, *Assistant Deputy Secretary*
Wisconsin Department of Revenue
E: jennifer.western@wisconsin.gov
P: (608) 266-6466
On the Web: <http://www.revenue.wi.gov/>

From: Loudenbeck, Amy [mailto:Amy.Loudenbeck@legis.wisconsin.gov]
Sent: Monday, November 04, 2013 10:29 AM
To: Western, Jennifer N - DOR
Cc: Morouney, Lonna - LEGIS; Michels, Steven - WEDC
Subject: RE: LRB 2997/P3

Thanks Jennifer – if you could please call mike Gallagher (608) 267-7511 directly at your earliest convenience to clarify your concerns that would be great. When you are finished speaking to him can you give the office a call to let Lonna know what modifications you agreed to so we can be ready for them in the revision?

I am hoping to get a final draft over to the Liebham office asap and start circulating for cosponsorship this week if the Senator gives his OK. Hopefully we can get a hearing before the end of the year.

Thanks –amy

Ps – I talked to Mike at LRB and he is expecting your call. At this point I am fine with the process that we have outlined in the bill. My goal is to have DOR and WEDC comfortable with the process that is expected to occur for implementation, so I told him to just work with you directly on that.

From: Western, Jennifer N - DOR [mailto:Jennifer.Western@revenue.wi.gov]
Sent: Sunday, November 03, 2013 9:57 PM
To: Loudenbeck, Amy; Morouney, Lonna

Cc: Michels, Steven - WEDC
Subject: RE: LRB 2997/P3

Hi Rep. Loudenbeck. Thanks, very much for referring our comments. I would be glad to speak with the LRB attorney tomorrow, if you'd like.

1. I am just verifying here that there are no concerns with the indirect reference to economic development tax benefits, provided the definition of "tax benefits." Should have answer tomorrow.
2. I think we just want to be sure we receive the notice of eligibility, and that the notice of eligibility contains the transferor and transferee's relevant information, and confirmation of the transfer of all the credits. I think we could replace the sentence with, "For purposes of this program, the notice of eligibility under s. 238.303 (3) shall include a copy of the verification, including confirmation of the transfer of all of the credits from the applicant to the person to whom the applicant transferred the credits."
*Also I spoke to WEDC and they don't think the annual verification under s. 238.306(1) relates to an annual report to DOR. It is an annual report of information *submitted* to DOR. So, there would be no need to change s. 238.306(1)(a).
3. I am thinking you wanted the carry-forward for the business to whom the credits are transferred to begin when the credits are transferred, right?

Thanks again,

Jennifer Western, *Assistant Deputy Secretary*
Wisconsin Department of Revenue
E: jennifer.western@wisconsin.gov
P: (608) 266-6466
On the Web: <http://www.revenue.wi.gov/>

From: Loudenbeck, Amy [<mailto:Amy.Loudenbeck@legis.wisconsin.gov>]
Sent: Tuesday, October 29, 2013 5:36 PM
To: Western, Jennifer N - DOR; Michels, Steven - WEDC
Cc: Morouney, Lonna - LEGIS
Subject: FW: LRB 2997/P3

Hi Jennifer –

GOOD NEWS: it appears that the DOR's suggestion related to page 4 lines 4 through 15 has not raised any new questions from the drafter. That is the item related to repayment which I know is very important. We will plan to make the changes suggested.

STILL PENDING – see the drafters comments in red below. The drafter is recommending sticking with the current language regarding what tax credits are covered under the bill. The other two items should be relatively easy to clarify, if you would be so kind as to review his comments and reply.

If you would like to speak directly with Mike or Joe at LRB please let me know. It appears that we are down to the final details and I really appreciate your patience and willingness to work with us on this language.

Thx - amy

From: Gallagher, Michael
Sent: Monday, October 28, 2013 2:22 PM
To: Morouney, Lonna
Cc: Kreye, Joseph
Subject: RE: LRB 2997/P3

Lonna: I do have a few questions. For ease of reference, I have included my questions in red below, in the body of Jennifer Western's e-mail. Of course, feel free to give me a call if you want to discuss. I am copying Joe Kreye on the e-mail because he drafts in the relevant tax chapters.

Thanks.

Mike

Mike Gallagher
Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Morouney, Lonna
Sent: Monday, October 28, 2013 9:08 AM
To: Gallagher, Michael
Subject: FW: LRB 2997/P3

Mike,
Here are the language changes we would like incorporated into LRB 2997/P3. If you don't have any questions, this can be a regular bill draft. Thank you!

Lonna Morouney
Committee Clerk for Assembly Committee on Workforce Development
Office of Representative Amy Loudenberg
31st Assembly District

Office 209 North
PO Box 8952
Madison, WI 53708
608-266-9967 Toll free: (888) 529-0031
Lonna.morouney@legis.wi.gov

From: Western, Jennifer N - DOR [<mailto:Jennifer.Western@revenue.wi.gov>]
Sent: Thursday, October 24, 2013 5:23 PM
To: Rep.Loudenberg; Morouney, Lonna
Cc: Michels, Steven - WEDC; Ristow, Nathaniel L - DOR (Nate)
Subject: LRB 2997/P3

Hi Rep. Loudenberg and Lonna:

We appreciate you sharing the latest draft of your tax transferability proposal. In my previous email (attached) I was trying to suggest language that would enable DOR to do required collection upon revocation. I did not see that reflected in your /P3. However, I have the explicit language below.

Here are the changes we are suggesting:

1. We didn't discuss this earlier today, but we would like to suggest more explicitly linking this to economic development tax credits. (I am cc'ing WEDC on this to invite their response.) Reasoning: Section 238.301 is referenced directly and indirectly by more than just one credit. If the intent is for the transfer to only apply to the economic development tax credit, the following change would be requested:

Page 2, Lines 3 and 4 change to this: "Approval. (a) An applicant for certification for tax benefits under ~~s. 238.301 ss. 71.07(2dy), 71.28(1dy), and 71.47(1dy)~~ may submit with its application for certification under s. 238.301 (4) an application to the corporation on"

MPG—"Tax benefits" is a defined term for purposes of ss. 238.301 to 238.306 (the economic development tax credit). The language in the bill draft creates a new section, 238.3045, which falls within that range of statute sections, thus incorporating the definition of "tax benefits" for purposes of the bill. That definition appears under s. 238.30 (7) (d): "In ss. 238.301 to 238.306, 'tax benefits' means the economic development tax credit under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637."

We should stick with the defined term "tax benefits" unless it is your intent not to authorize transfers of all of the economic development tax credits to which the tax credit program under ss. 238.301 to 238.306 currently applies. Above, Jennifer omits the economic development tax credit under s. 76.637, but she includes it in item 3, below. I don't see any other tax credit that cross-references ss. 238.301 to 238.306 besides the economic development tax credit under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637. I am not sure to what other tax credits Jennifer may be referring.

Mike: we would be fine with leaving the reference to s. 238.301 on Page 2, lines 304. ✓

2. We did discuss this today.

Page 3, line 21: Replace "The person who transfers the tax benefits shall promptly notify the department of revenue and the corporation of the transfer in the manner prescribed by the corporation."

WITH:

"When verification occurs, the corporation will submit to the department of revenue a copy of the verification, including confirmation of the transfer of all of the credits from the applicant to the person to whom the applicant transferred the credits."

MPG—Does this mean that WEDC should provide a notice to DOR in addition to the notice of eligibility WEDC provides under s. 238.303 (3), under current law? (Note that, in the draft, the notice of eligibility issued by WEDC is the trigger for the actual transfer of economic development tax credits because the notice of eligibility represents WEDC's approval to actually claim those credits.)

Alternatively, should the bill require WEDC to include the transferee's relevant information in the notice of eligibility WEDC already provides to DOR? That may make more sense.

Also, should the annual verification WEDC is required to provide DOR under s. 238.306 (1) (a) concerning information submitted to DOR by all claimants of the economic development tax credit also include information submitted by transferees claiming a transferred tax credit under s. 238.3045, created in the draft? Is that the verification to which Jennifer is referring?

Mike: Yes, DOR wants to be sure it receives the notice of eligibility, and that the notice of eligibility contains the transferor and transferee's relevant information, and confirmation of the transfer of all the credits.

Could replace above sentence with, "For purposes of this program, the notice of eligibility under s. 238.303 (3) shall include a copy of the verification, including confirmation of the transfer of all of the credits from the applicant to the person to whom the applicant transferred the credits.

Upon discussion with WEDC, they do not believe the annual verification under s. 238.306(1) relates to an annual report to DOR. It is an annual report of information *submitted* to DOR. So, there would be no need to change s. 238.306(1)(a).

3. We also discussed this today.

Page 3, lines 23 - 25: Replace "The person to whom tax benefits are transferred may carry forward any unused amount of the value of those tax benefits as provided under the appropriate provision in ch. 71 or in s. 76.636."

WITH:

"The person to whom the benefits are transferred may carry forward any unused amount of the value of those tax benefits as provided under the appropriate provision in ch. 71 or in s. 76.636, except that the recipient of the transferred credits begins a new carryforward period."

MPG—Does this mean the draft should state that the carry-forward begins on the date the tax credits are transferred, as opposed to the date of the notice of eligibility WEDC provides DOR under s. 238.303 (3)?

Mike: The date the tax credits are transferred and the date of the notice of eligibility - my understanding was that this was the same date? I believe you are going to make sure that is the same date.

4. We also discussed this today.

Page 4, Lines 4 through 15 replace with this:

"(2) REPAYMENT. (a) If the corporation revokes a person's certification for tax benefits under s. 238.305, and, at the time of revocation, that person has transferred those tax benefits under this section, that person shall be liable for the full value of the tax benefits. The corporation shall notify the department of revenue of the revocation of the tax benefits and of the amount that the department of revenue must assess to that person. The department of revenue has full power to administer the credits provided in this section and may take any action, conduct any proceeding and proceed as it is authorized in respect to income and franchise taxes imposed in chapter 71. The income and franchise tax provisions in chapter 71 relating to assessments, refunds, appeals, collection, interest and penalties apply to the credits under this section.

(b) If the corporation revokes a person's certification for tax benefits under s. 238.305, the person to whom the credits were transferred shall not be authorized to claim unused credits.

Let me know if you have any questions or would like to further discuss any item.

Jennifer Western, *Assistant Deputy Secretary*
Wisconsin Department of Revenue
E: jennifer.western@wisconsin.gov
On the Web: <http://www.revenue.wi.gov/>

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Gallagher, Michael

From: Gallagher, Michael
Sent: Monday, October 28, 2013 2:22 PM
To: Morouney, Lonna
Cc: Kreye, Joseph
Subject: RE: LRB 2997/P3

Lonna: I do have a few questions. For ease of reference, I have included my questions in red below, in the body of Jennifer Western's e-mail. Of course, feel free to give me a call if you want to discuss. I am copying Joe Kreye on the e-mail because he drafts in the relevant tax chapters.

Thanks.

Mike

Mike Gallagher
Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Morouney, Lonna
Sent: Monday, October 28, 2013 9:08 AM
To: Gallagher, Michael
Subject: FW: LRB 2997/P3

Mike,
Here are the language changes we would like incorporated into LRB 2997/P3. If you don't have any questions, this can be a regular bill draft. Thank you!

Lonna Morouney
Committee Clerk for Assembly Committee on Workforce Development
Office of Representative Amy Loudenberg
31st Assembly District

Office 209 North
PO Box 8952
Madison, WI 53708
608-266-9967 Toll free: (888) 529-0031
Lonna.morouney@legis.wi.gov

From: Western, Jennifer N - DOR [<mailto:Jennifer.Western@revenue.wi.gov>]
Sent: Thursday, October 24, 2013 5:23 PM
To: Rep.Loudenberg; Morouney, Lonna
Cc: Michels, Steven - WEDC; Ristow, Nathaniel L - DOR (Nate)
Subject: LRB 2997/P3

Hi Rep. Loudenberg and Lonna:

We appreciate you sharing the latest draft of your tax transferability proposal. In my previous email (attached) I was trying to suggest language that would enable DOR to do required collection upon revocation. I did not see that reflected in your /P3. However, I have the explicit language below.

Here are the changes we are suggesting:

1. We didn't discuss this earlier today, but we would like to suggest more explicitly linking this to economic development tax credits. (I am cc'ing WEDC on this to invite their response.) Reasoning: Section 238.301 is referenced directly and indirectly by more than just one credit. If the intent is for the transfer to only apply to the economic development tax credit, the following change would be requested:

Page 2, Lines 3 and 4 change to this: "Approval. (a) An applicant for certification for tax benefits under ~~s. 238.301 ss. 71.07(2dy), 71.28(1dy), and 71.47(1dy)~~ may submit with its application for certification under s. 238.301 ~~(4)~~ an application to the corporation on"

MPG—"Tax benefits" is a defined term for purposes of ss. 238.301 to 238.306 (the economic development tax credit). The language in the bill draft creates a new section, 238.3045, which falls within that range of statute sections, thus incorporating the definition of "tax benefits" for purposes of the bill. That definition appears under s. 238.30 (7) (d): "In ss. 238.301 to 238.306, 'tax benefits' means the economic development tax credit under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637."

We should stick with the defined term "tax benefits" unless it is your intent not to authorize transfers of all of the economic development tax credits to which the tax credit program under ss. 238.301 to 238.306 currently applies. Above, Jennifer omits the economic development tax credit under s. 76.637, but she includes it in item 3, below. I don't see any other tax credit that cross-references ss. 238.301 to 238.306 besides the economic development tax credit under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637. I am not sure to what other tax credits Jennifer may be referring.

2. We did discuss this today.

Page 3, line 21: Replace "The person who transfers the tax benefits shall promptly notify the department of revenue and the corporation of the transfer in the manner prescribed by the corporation."

WITH:

"When verification occurs, the corporation will submit to the department of revenue a copy of the verification, including confirmation of the transfer of all of the credits from the applicant to the person to whom the applicant transferred the credits."

MPG—Does this mean that WEDC should provide a notice to DOR in addition to the notice of eligibility WEDC provides under s. 238.303 (3), under current law? (Note that, in the draft, the notice of eligibility issued by WEDC is the trigger for the actual transfer of economic development tax credits because the notice of eligibility represents WEDC's approval to actually claim those credits.)

Alternatively, should the bill require WEDC to include the transferee's relevant information in the notice of eligibility WEDC already provides to DOR? That may make more sense. *add info.*

Also, should the annual verification WEDC is required to provide DOR under s. 238.306 (1) (a) concerning information submitted to DOR by all claimants of the economic development tax credit also include information submitted by transferees claiming a transferred tax credit under s. 238.3045, created in the draft? Is that the verification to which Jennifer is referring? *— make DOR same as verification*

3. We also discussed this today.

Page 3, lines 23 - 25: Replace "The person to whom tax benefits are transferred may carry forward any unused amount of the value of those tax benefits as provided under the appropriate provision in ch. 71 or in s. 76.636."

WITH:

"The person to whom the benefits are transferred may carry forward any unused amount of the value of those tax benefits as provided under the appropriate provision in ch. 71 or in s. 76.636, except that the recipient of the transferred credits begins a new carryforward period."

MPG—Does this mean the draft should state that the carry-forward begins on the date the tax credits are transferred, as opposed to the date of the notice of eligibility WEDC provides DOR under s. 238.303 (3)?

4. We also discussed this today.

Page 4, Lines 4 through 15 replace with this:

"(2) REPAYMENT. (a) If the corporation revokes a person's certification for tax benefits under s. 238.305, and, at the time of revocation, that person has transferred those tax benefits under this section, that person shall be liable for the full value of the tax benefits. The corporation shall notify the department of revenue of the revocation of the tax benefits and of the amount that the department of revenue must assess to that person. The department of revenue has full power to administer the credits provided in this section and may take any action, conduct any proceeding and proceed as it is authorized in respect to income and franchise taxes imposed in chapter 71. The income and franchise tax provisions in chapter 71 relating to assessments, refunds, appeals, collection, interest and penalties apply to the credits under this section.

(b) If the corporation revokes a person's certification for tax benefits under s. 238.305, the person to whom the credits were transferred shall not be authorized to claim unused credits.

Let me know if you have any questions or would like to further discuss any item.

Jennifer Western, *Assistant Deputy Secretary*
Wisconsin Department of Revenue
E: jennifer.western@wisconsin.gov
On the Web: <http://www.revenue.wi.gov/>

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To: Gallagher, Michael
Subject: FW: LRB 2997/P3

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Lonna Morouney
Committee Clerk for Assembly Committee on Workforce Development
Office of Representative Amy Loudenberg
31st Assembly District

Office 209 North
PO Box 8952
Madison, WI 53708
608-266-9967 Toll free: (888) 529-0031
Lonna.morouney@legis.wi.gov

From: Western, Jennifer N - DOR [<mailto:Jennifer.Western@revenue.wi.gov>]
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To: Rep.Loudenberg; Morouney, Lonna
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(b) If the corporation revokes a person's certification for tax benefits under s. 238.305, the person to whom the credits were transferred shall not be authorized to claim unused credits.

Let me know if you have any questions or would like to further discuss any item.

Jennifer Western, *Assistant Deputy Secretary*
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1/P4

- 1 *gen act* AN ACT *to create* 238.3045 of the statutes; **relating to:** authorizing the transfer
2 of certain tax credits earned in connection with economic development in this
3 state.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Economic Development Corporation (corporation) may certify a person to claim tax credits against the person's income or franchise tax liability or against the person's liability for fees imposed on insurers, if the corporation determines that the person is conducting or will conduct certain eligible business activities that will result in economic development in Wisconsin (economic development tax credits). A person may qualify for additional economic development tax credits if the eligible activity conducted by the person will benefit a particular group or economically distressed area that the state has targeted for economic development.

This bill creates a program under which the corporation may approve the transfer of economic development tax credits to another Wisconsin taxpayer other than the person to whom the corporation initially awards the tax credits. Under the bill, the corporation may approve the transfer of economic development tax credits if the person to whom the tax credits are initially awarded meets at least one of the following conditions in addition to being authorized by the corporation to claim the tax credits:

1. The person is headquartered in, and employs at least 51 percent of its employees in, Wisconsin.
2. The person intends to relocate its headquarters to, and employ at least 51 percent of its employees in, Wisconsin.

3. The person intends to expand its operations in Wisconsin, and that expansion will increase the number of full-time employees employed by the person in Wisconsin by a number that equals at least 10 percent of the person's full-time employees.

4. The person intends to expand its operations in Wisconsin, and the person will make a significant capital investment in property in Wisconsin as a result of that expansion.

If the corporation approves a person to transfer economic development tax credits, that person may transfer those tax credits to another person previously identified to the corporation if the tax credits are transferred in exchange for some valuable consideration, other than money, in connection with the eligible business activity for which the tax credits were awarded. The person transferring the credits must notify the corporation and the Department of Revenue of that transfer. The person to whom the tax credits are transferred may carry forward any unused amount of those tax credits for up to 15 years until fully claimed.

Under the bill, if the corporation revokes a person's certification for economic development tax credits and that person has already transferred the tax credits, that person must repay the full amount of the tax credits to the state.

Under the bill, the corporation may authorize the transfer of up to \$15,000,000 in economic development tax credits over three years. However, if after reaching that three-year limit, the corporation determines that an extension of the program will support significant economic development in Wisconsin, the corporation may continue the program for up to an additional three years and authorize the transfer of up to an additional \$15,000,000 in economic development tax credits. However, any such extension of the program is subject to passive review by the Joint Committee on Finance.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 238.3045 of the statutes is created to read:

238.3045 Transferability of tax benefits. (1) APPLICATION AND CORPORATION APPROVAL. (a) An applicant for certification for tax benefits under s. 238.301 may submit with its application under s. 238.301 (1) an application to the corporation on a form prescribed by the corporation to transfer those tax benefits to another person under this section. The application shall include the name, address, and tax identification number of the person to whom the applicant intends to transfer the tax benefits and any other information the corporation requires. The corporation shall

1 notify the applicant of the corporation's determination concerning the transfer of tax
2 benefits when the corporation notifies the applicant of the corporation's certification
3 determination under s. 238.301.

4 (b) The corporation may approve the transfer of tax benefits under this section
5 if the corporation certifies the applicant under par. (a) for tax benefits under s.
6 238.301 and finds that the applicant meets at least one of the following conditions:

7 1. Is headquartered and employs at least 51 percent of its employees in this
8 state.

9 2. Intends to relocate its headquarters to this state and employ at least 51
10 percent of its employees in this state.

11 3. Intends to expand its operations in this state, and that expansion will result
12 in an increase in the number of full-time employees employed by the applicant in
13 this state in an amount equal to at least 10 percent of the applicant's full-time
14 workforce in this state at the time of application.

15 4. Intends to expand its operations in this state, and that expansion will result
16 in the applicant making a significant capital investment in property located in this
17 state, as determined by the corporation.

18 (c) 1. Subject to subd. 2., a person that receives an approval under par. (b) may
19 transfer tax benefits in accordance with the terms of the application under par. (a)
20 after the corporation authorizes the person to claim tax benefits under s. 238.303 (2)

21 and provides the notice of eligibility under s. 238.303 (3). The person who transfers
22 the tax benefits shall promptly notify the department of revenue and the corporation
23 of the transfer in the manner prescribed by the corporation. The person to whom tax

24 benefits are transferred may carry forward any unused amount of the value of those
25 tax benefits as provided under the appropriate provision in ch. 71 or in s. 76.636.

relevant information
relevant information
The notice of eligibility shall contain all relevant information concerning a transfer of tax benefits.

beginning on the date of the notice of eligibility

1 2. Tax benefits may be transferred under this paragraph only in exchange for
2 some consideration, other than money, in connection with the eligible activity for
3 which the tax benefits were initially awarded.

4 **(2) REPAYMENT.** (a) 1. If the corporation revokes a person's certification for tax
5 benefits under s. 238.305, and, at the time of revocation, that person has transferred
6 those tax benefits under this section, that person shall repay the full amount of the
7 tax benefits. The corporation may recover its costs of collection under this
8 subdivision, including reasonable attorney fees.

9 2. If the corporation is unable to recover under subd. 1. the full amount of tax
10 benefits that the corporation approved to be transferred and that was transferred
11 under this section, the corporation shall notify the department of revenue of the
12 revocation of tax benefits and of the amount that may not be claimed.

13 (b) The corporation shall pay any amounts it receives as payment for
14 transferred tax benefits under par. (a) to the secretary of administration for deposit
15 in the general fund.

16 **(3) ANNUAL REPORT.** Annually, the corporation shall submit a report to the joint
17 committee on finance that provides a detailed assessment of the progress to date of
18 the program under this section.

19 **(4) PROGRAM LIMITS AND TERMINATION.** (a) Except as provided in par. (b), the
20 corporation may not authorize the transfer of tax benefits under this section that
21 total more than \$15,000,000, and the corporation may not authorize the transfer of
22 tax benefits after 36 months after the effective date of this paragraph [LRB inserts
23 date].

24 (b) Upon expiration of the 36-month period under par. (a), the corporation may
25 continue to authorize the transfer of tax benefits under this section for up to an

1 additional 36 months, and the corporation may authorize the transfer of up to an
2 additional \$15,000,000 in tax benefits, if the corporation determines that a
3 continuation of the program under this section will promote significant economic
4 development in this state. Before the corporation authorizes the transfer of tax
5 benefits under this paragraph, the chief executive officer of the corporation shall
6 notify the joint committee on finance in writing that the corporation intends to
7 continue authorizing the transfer of tax benefits under this section. That notice shall
8 state the reasons supporting the corporation's determination that the transfer of
9 additional tax benefits will promote significant economic development in this state.
10 If, within 14 working days after the date of that notice, the cochairpersons of the
11 committee do not notify the corporation that the committee has scheduled a meeting
12 to review the corporation's proposed continuation of the program, the corporation
13 may proceed to authorize the transfer of additional tax benefits under this section.
14 If, within 14 working days after the date of that notice, the cochairpersons of the
15 committee notify the corporation that the committee has scheduled a meeting to
16 review the proposed continuation of the program, the corporation may proceed to
17 authorize the transfer of additional tax benefits only upon approval of the committee.

18 **SECTION 2. Initial applicability.**

19 (1) This act first applies to taxable years beginning on January 1, 2014.

20 (END)



In: 11/6 By Friday 11/8
State of Wisconsin
2013 - 2014 LEGISLATURE
Thanks!



LRB-2997(P4)
MPG&JK:sagjif

free

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Insert

1

regen

- 1 AN ACT ^{to create} 238.3045 of the statutes; **relating to:** authorizing the transfer
- 2 of certain tax credits earned in connection with economic development in this
- 3 state.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Economic Development Corporation (corporation) may certify a person to claim tax credits against the person's income or franchise tax liability or against the person's liability for fees imposed on insurers, if the corporation determines that the person is conducting or will conduct certain eligible business activities that will result in economic development in Wisconsin (economic development tax credits). A person may qualify for additional economic development tax credits if the eligible activity conducted by the person will benefit a particular group or economically distressed area that the state has targeted for economic development.

This bill creates a program under which the corporation may approve the transfer of economic development tax credits to another Wisconsin taxpayer other than the person to whom the corporation initially awards the tax credits. Under the bill, the corporation may approve the transfer of economic development tax credits if the person to whom the tax credits are initially awarded meets at least one of the following conditions in addition to being authorized by the corporation to claim the tax credits:

1. The person is headquartered in, and employs at least 51 percent of its employees in, Wisconsin.
2. The person intends to relocate its headquarters to, and employ at least 51 percent of its employees in, Wisconsin.

and the person to whom the credits were transferred may not claim any unused credits

3. The person intends to expand its operations in Wisconsin, and that expansion will increase the number of full-time employees employed by the person in Wisconsin by a number that equals at least 10 percent of the person's full-time employees.

4. The person intends to expand its operations in Wisconsin, and the person will make a significant capital investment in property in Wisconsin as a result of that expansion.

If the corporation approves a person to transfer economic development tax credits, that person may transfer those tax credits to another person previously identified to the corporation if the tax credits are transferred in exchange for some valuable consideration, other than money, in connection with the eligible business activity for which the tax credits were awarded. The person to whom the tax credits are transferred may carry forward any unused amount of those tax credits for up to 15 years until fully claimed.

Under the bill, if the corporation revokes a person's certification for economic development tax credits and that person has already transferred the tax credits, that person must repay the full amount of the tax credits to the state.

Under the bill, the corporation may authorize the transfer of up to \$15,000,000 in economic development tax credits over three years. However, if after reaching that three-year limit, the corporation determines that an extension of the program will support significant economic development in Wisconsin, the corporation may continue the program for up to an additional three years and authorize the transfer of up to an additional \$15,000,000 in economic development tax credits. However, any such extension of the program is subject to passive review by the Joint Committee on Finance.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 238.3045 of the statutes is created to read:

238.3045 Transferability of tax benefits. (1) APPLICATION AND CORPORATION

APPROVAL. (a) An applicant for certification for tax benefits under s. 238.301 may submit with its application under s. 238.301 (1) an application to the corporation on a form prescribed by the corporation to transfer those tax benefits to another person under this section. The application shall include the name, address, and tax identification number of the person to whom the applicant intends to transfer the tax benefits and any other information the corporation requires. The corporation shall

1 notify the applicant of the corporation's determination concerning the transfer of tax
2 benefits when the corporation notifies the applicant of the corporation's certification
3 determination under s. 238.301.

4 (b) The corporation may approve the transfer of tax benefits under this section
5 if the corporation certifies the applicant under par. (a) for tax benefits under s.
6 238.301 and finds that the applicant meets at least one of the following conditions:

7 1. Is headquartered and employs at least 51 percent of its employees in this
8 state.

9 2. Intends to relocate its headquarters to this state and employ at least 51
10 percent of its employees in this state.

11 3. Intends to expand its operations in this state, and that expansion will result
12 in an increase in the number of full-time employees employed by the applicant in
13 this state in an amount equal to at least 10 percent of the applicant's full-time
14 workforce in this state at the time of application.

15 4. Intends to expand its operations in this state, and that expansion will result
16 in the applicant making a significant capital investment in property located in this
17 state, as determined by the corporation.

18 (c) 1. Subject to subd. 2., a person that receives an approval under par. (b) ^{shall} may
19 transfer tax benefits in accordance with the terms of the application under par. (a)
20 after the corporation authorizes the person to claim tax benefits under s. 238.303 (2)
21 and provides the notice of eligibility under s. 238.303 (3). The notice of eligibility
22 shall contain all relevant information concerning a transfer of tax benefits under this
23 section. The person to whom tax benefits are transferred may carry forward,
24 beginning on the date of the notice of eligibility, any unused amount of the value of

Revocation
Revocation (CS)

1 those tax benefits as provided under the appropriate provision in ch. 71 or in s.
2 76.636.

3 2. Tax benefits may be transferred under this paragraph only in exchange for
4 some consideration, other than money, in connection with the eligible activity for
5 which the tax benefits were initially awarded. be liable for

6 (2) ~~REPAYMENT~~ (a) 1. If the corporation revokes a person's certification for tax
7 benefits under s. 238.305, and, at the time of revocation, that person has transferred

8 those tax benefits under this section, that person shall repay the full amount of the value
9 tax benefits. The corporation may ~~recover~~ its costs of collection under this

10 subdivision, including reasonable attorney fees.

11 2. If the corporation is unable to recover under subd. 1. the full amount of tax
12 benefits that the corporation approved to be transferred and that was transferred
13 under this section, the corporation shall notify the department of revenue of the
14 revocation of tax benefits and of the amount that may not be claimed.

15 (b) The corporation shall pay any amounts it receives as payment for
16 transferred tax benefits under par. (a) to the secretary of administration for deposit
17 in the general fund.

18 (3) ANNUAL REPORT. Annually, the corporation shall submit a report to the joint
19 committee on finance that provides a detailed assessment of the progress to date of
20 the program under this section.

21 (4) PROGRAM LIMITS AND TERMINATION. (a) Except as provided in par. (b), the
22 corporation may not authorize the transfer of tax benefits under this section that
23 total more than \$15,000,000, and the corporation may not authorize the transfer of
24 tax benefits after 36 months after the effective date of this paragraph [LRB inserts
25 date].

and the person to whom the tax benefits were transferred
may not claim any tax benefits that were not claimed
prior to revocation

Insert 4-11

(b) Upon expiration of the 36-month period under par. (a), the corporation may continue to authorize the transfer of tax benefits under this section for up to an additional 36 months, and the corporation may authorize the transfer of up to an additional \$15,000,000 in tax benefits, if the corporation determines that a continuation of the program under this section will promote significant economic development in this state. Before the corporation authorizes the transfer of tax benefits under this paragraph, the chief executive officer of the corporation shall notify the joint committee on finance in writing that the corporation intends to continue authorizing the transfer of tax benefits under this section. That notice shall state the reasons supporting the corporation's determination that the transfer of additional tax benefits will promote significant economic development in this state. If, within 14 working days after the date of that notice, the cochairpersons of the committee do not notify the corporation that the committee has scheduled a meeting to review the corporation's proposed continuation of the program, the corporation may proceed to authorize the transfer of additional tax benefits under this section. If, within 14 working days after the date of that notice, the cochairpersons of the committee notify the corporation that the committee has scheduled a meeting to review the proposed continuation of the program, the corporation may proceed to authorize the transfer of additional tax benefits only upon approval of the committee.

SECTION 2. Initial applicability.

(1) This act first applies to taxable years beginning on January 1, 2014.

(END)

Page 4, Lines 4 through 15 replace with this:

"(2) REPAYMENT. (a) If the corporation revokes a person's certification for tax benefits under s. 238.305, and, at the time of revocation, that person has transferred those tax benefits under this section, that person shall be liable for the full value of the tax benefits. The corporation shall notify the department of revenue of the revocation of the tax benefits and of the amount that the department of revenue must assess to that person. The department of revenue has full power to administer the credits provided in this section and may take any action, conduct any proceeding and proceed as it is authorized in respect to income and franchise taxes imposed in chapter 71. The income and franchise tax provisions in chapter 71 relating to assessments, refunds, appeals, collection, interest and penalties apply to the credits under this section.

(b) If the corporation revokes a person's certification for tax benefits under s. 238.305, the person to whom the credits were transferred shall not be authorized to claim unused credits.

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2997/lins
MPG:sac:jf

1 INSERT 4-11

2 (b) The corporation shall notify the department of revenue of a revocation of tax
3 benefits subject to ~~subd. 1~~^{par. (a)}, including the value of the tax benefits for which the
4 person is liable.

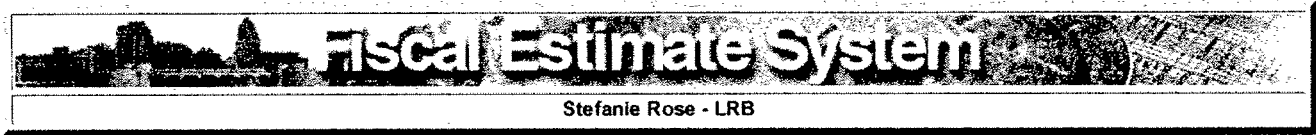
5 (c) The department of revenue has full power to administer tax benefits
6 transferred under this section and may take any action, conduct any proceeding, and
7 proceed as it is authorized in respect to income and franchise taxes imposed under
8 ~~chapter~~^{ch.} 71. The income and franchise tax provisions in ~~chapter~~^{ch.} 71 relating to
9 assessments, refunds, appeals, collection, interest, and penalties apply to tax
10 benefits transferred under this section.

11 END INSERT 4-11

Rose, Stefanie

From: Loudenbeck, Amy
Sent: Monday, November 11, 2013 12:12 PM
To: LRB.Legal
Subject: Draft Review: LRB -2997/1 Topic: Transferability of tax credits related to economic development

Please Jacket LRB -2997/1 for the ASSEMBLY.



[HELP](#)

[Edit the Request](#)

[Add A New Request](#)

Results: Changes have been saved.

LRB Number: ! 13-2997/1

Introduction Number: AB-0580

Description:

Comment: RUSH - HEARING SCHEDULED FOR 1-22-14.
REQUESTER WOULD LIKE FEs FROM WEDC AND DOR

Public: ☒ checked if the request and draft/bill are to be public

DRAFT/BILL: Not Attached

ATTACH A RELATED DOCUMENT

Browse to choose the document you would like to attach. Click ATTACH to add the document to the request.

Note: The filename for the attachment must be 50 characters or less.

Browse... No file selected.

[ATTACH](#)

Wisconsin Department of Administration 101 East Wilson Street Madison, WI 53702

FE
Oked
by MPG
01-16-2014

1-16-14

Fiscals requested by
Rep. Amy Loudenbeck
Companion bill SB-449
LRB-3767